

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DIANE BALES, Special Administrator
of the Estate of EDWARD
FREDENBURG, Deceased,

Plaintiff,

v.

ARBOR MANOR, SSC FREMONT
OPERATING COMPANY, LLC., d/b/a
ARBOR MANOR,

Defendants.

CASE NO. _____

NOTICE OF REMOVAL
WITH JURY REQUESTED
IN LINCOLN, NEBRASKA

PLEASE TAKE NOTICE that Defendants Arbor Manor and SSC Fremont Operating Company, LLC, d/b/a Arbor Manor, by and through their counsel of record, hereby remove the state action described below to the United States District Court for the District of Nebraska. Defendants further state as follows:

1. The state action to be removed to this Court was filed in the District Court of Dodge County, Case No. CI 08-124, and is entitled Diane Bales, Special Administrator of the Estate of Edward Fredenburg, Deceased, vs. Arbor Manor, SSC Fremont Operating Company, LLC, d/b/a Arbor Manor. The action was filed on March 11, 2008.
2. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders served upon Defendants in the state court action are attached hereto marked as Exhibit "A."
3. Plaintiff's "Complaint" in the state court action (attached as part of Exhibit "A") identifies the corporate defendant as a "incorporated under and pursuant to the

laws of the State of Delaware.” Pursuant to 28 U.S.C. §1446(b), this Notice of Removal is timely having been filed within one (1) year after commencement of this action and within thirty (30) days after receipt of the Plaintiff’s Complaint.

4. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441(b) insofar as this is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.
5. Plaintiff’s Complaint establishes that the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, insofar as it seeks damages for negligence resulting in the wrongful death of Edward Fredenburg and loss of the comfort of his society and companionship. (Plaintiff’s Complaint, ¶X).
6. Based upon the pleadings and all reasonable inquiry, all named Defendants, by and through their counsel of record, represent as follows:
 - a. Plaintiff is a citizen of Nebraska.
 - b. Defendant **SSC Fremont Operating Company, LLC d/b/a Arbor Manor** is a Delaware limited liability company authorized to conduct business in the State of Nebraska.
 - c. Defendant **Arbor Manor** is the d/b/a of the above-named Defendant, SSC Fremont Operating Company, LLC, which is a Delaware limited liability company authorized to conduct business in the State of Nebraska.

7. Promptly upon filing this Notice, Defendants represent that they will give notice in writing thereof to Plaintiff and will file a copy of this Notice of Removal with the Clerk of the District Court for Dodge County, Nebraska.

WHEREFORE, Defendants Arbor Manor and SSC Fremont Operating Company, LLC, d/b/a Arbor Manor pray that this action be removed to the United States District Court for the District of Nebraska.

DATED this 11th day of April, 2008.

ARBOR MANOR, SSC FREMONT
OPERATING COMPANY, LLC., d/b/a ARBOR
MANOR, Defendants,

BY: s/Dean J. Sitzmann
Dean J. Sitzmann, #17224
WOLFE, SNOWDEN, HURD,
LUERS & AHL, LLP
Wells Fargo Center
1248 O Street, Suite 800
Lincoln, NE 68508-1424
TEL: (402) 474-1507
FAX: (402) 474-3170
dsitzmann@wolfesnowden.com

CERTIFICATE OF SERVICE

I hereby certify that on April 11th, 2008, I electronically filed the foregoing ***Notice of Removal with Jury Requested in Lincoln, Nebraska*** with the Clerk of the Court using the CM/ECF system. I also hereby certify that a true and correct copy of the above foregoing document was sent by first-class United States mail, first class postage prepaid, on this 11th day of April, 2008, upon the following:

Jeffrey P. Welch
JOHNSON WELCH, P.C.
3628 North 163rd Plaza
Omaha, NE 68116

law@johnsonwelch.com

s/Dean J. Sitzmann
Dean J. Sitzmann

IN THE DISTRICT COURT OF DODGE COUNTY, NEBRASKA

DIANE BALES, Special Administrator
of the Estate of
EDWARD FREDENBURG, Deceased

Plaintiff,

vs.

ARBOR MANOR,
SSC FREMONT OPERATING
COMPANY, LLC., d/b/a
ARBOR MANOR,

Defendant.

Case No. _____

COMPLAINT

COPY

FILED

11:10 A.M. _____ P.M.

MAR 11 2008

IN DISTRICT COURT OF
DODGE COUNTY, NEBR.
LINDA J. NELSON, CLERK

COMES NOW the Plaintiff, Diane Bales, the Special Administrator of the Estate of Edward Fredenburg, hereinafter referred to as "the Plaintiff", and for her causes of action against the Defendant, states and alleges as follows:

I.

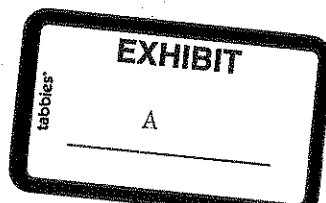
On January 22, 2008, after proceedings duly had and taken in the County Court of Dodge County, Nebraska, the Plaintiff Diane Bales was duly appointed by Order of that court, Special Administrator of the Estate of Edward Fredenburg, deceased, and the Plaintiff thereafter qualified, thereupon became, ever since having been and is now the duly appointed, qualified and acting Special Administrator of the Estate of Edward Fredenburg.

II.

Edward Fredenburg left surviving as heirs at law his daughter Diane Bales. This action is brought by the Plaintiff, as Special Administrator, for the exclusive benefit of such heirs at law.

III.

At all relevant times herein, the Defendant, SSC Fremont Operating Company, L.L.C., d/b/a Arbor Manor, (hereinafter referred to as "Defendant SSC Fremont"), was incorporated under and pursuant to the laws of the State of Delaware, operating senior living facilities, including Arbor Manor, in Fremont, Dodge County, Nebraska, and employed administrators,



nurses, dieticians, assistants and other agents or apparent agents to provide skilled nursing home services.

IV.

On January 16, 2007, Edward the deceased, was admitted to the Defendants' Arbor Manor nursing home in order to receive the required care and treatment that could not be adequately provided in his prior living arrangement. While at the nursing home, he was assessed for risk factors and administered a regimen of medications and therapy to address his needs.

V.

Following Edward's admission to the Defendants' nursing home on January 16, 2007, the Defendants undertook his care, and owed him a duty to reasonably and prudently observe, assess, record, advise and monitor his medical condition, and provide him with proper care.

VI.

All of Defendant SSC Fremont and all of Defendant Arbor Manor's employees who provided and/or were responsible for Edward's care while in the Defendants' nursing home were acting within the course and scope of their employment.

VII.

Each of the Defendants failed to exercise reasonable and ordinary care, skill and diligence, and departed from the generally accepted and recognized standard of care for the community in the care, assistance and treatment of Edward Fredenburg, and were therefore negligent in performing their duties in one or more of the following particulars:

1. Failed to assist Plaintiff with activities of daily living;
2. Failed to provide Plaintiff services as ordered by a medical practitioner;
3. Failed to provide Plaintiff a clean, safe and/or sanitary environment;
4. Failed to assist Plaintiff with bowel and/or bladder program;
5. Failed to ensure Plaintiff's medications were available on a regular basis;
6. Failed to administer medications as ordered by a medical practitioner;
7. Failed to notify Plaintiff's physician of Plaintiff's change of condition; and

8. Failed to ensure the Plaintiff is treated with dignity.

VIII.

At all times herein Edward relied upon and was dependent upon Defendants and their employees to provide for his proper care and safety.

IX.

The actions of the Defendants as set forth in paragraphs VIII and/or IX above were the direct and proximate cause of the wrongful death of Edward Fredenburg on July 3, 2007.

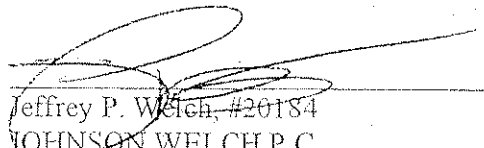
X.

As a direct and proximate result of joint and several negligence of the Defendant, and the resulting wrongful death of Edward Fredenburg, the immediate surviving next of kin of Edward, have been deprived of the comfort of his society and companionship, as well as other pleasures and rights having a pecuniary value, which attend to immediate family relationships.

WHEREFORE, Plaintiff prays for judgment on this Cause of Action for the wrongful death of decedent against the Defendant for such damages as are reasonable, with interest thereon, together with the costs and such other relief as may be allowed by the laws of the State of Nebraska.

DIANE BALES, Special Administrator
of the Estate of EDWARD FREDENBURG,
Deceased

By:



Jeffrey P. Welch, #20184
JOHNSON WELCH P.C.
3628 North 163rd Plaza
Omaha, NE 68116
(402) 934-7878 – telephone
(402) 934-4737 – facsimile
law@johnsonwelch.com

DEMAND FOR JURY TRIAL

Plaintiff hereby requests that the above and foregoing cause of action be set for trial by a jury.

DIANE BALES, Special Administrator
of the Estate of EDWARD FREDENBURG,
Deceased

By:



~~Jeffrey P. Welch, #20184~~
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EDWARD FREDENBURG, Deceased

Plaintiff,

vs.

ARBOR MANOR,
SSC FREMONT OPERATING
COMPANY, LLC., d/b/a
ARBOR MANOR,

Defendant.

Case No. _____

PRAECIPE

FILED
11:40 A.M. P.M.
MAR 11 2008

IN DISTRICT COURT OF
DODGE COUNTY, NEBR.
LINDA NELSON, CLERK

TO THE CLERK OF SAID COURT:


Please issue summons for certified mail to the following Defendants:

Arbor Manor, c/o SSC Fremont Operating Company LLC c/o Registered Agent, CT
Corporation System, Suite 500, 301 South 13th Street, Lincoln, NE 68508;

Arbor Manor, c/o William Gerken, Administrator, 2550 North Nye Ave, Fremont, NE
68025.

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of the Estate of EDWARD FREDENBURG,
Deceased

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